

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

LIFEWATCH SERVICES INC.,

Plaintiff,

v.

BRAEMAR, INC. AND
ECARDIO DIAGNOSTICS, LLC,

Defendants.

Civil Action No. 09-CV-6001

JOINT MOTION TO AMEND CERTAIN CASE DEADLINES

Pursuant to Federal Rule 16(b)(4), the parties to this lawsuit, Plaintiff LifeWatch Services Inc. (“LifeWatch”) and Defendants Braemar, Inc. and eCardio Diagnostics, LLC, jointly move the Court to amend the scheduling order to extend certain deadlines in this case, as set forth herein.

The parties believe good cause exists to grant this motion. The patent at issue in this case (the ‘143 patent) is currently under re-examination by the U.S. Patent and Trademark Office (“PTO”) and the PTO in a recent Final Office Action has currently rejected all claims of the ‘143 Patent. Further activity in the PTO on this rejection is anticipated in the next two months. Given the current status of the reexamination proceeding, the parties believe that it is reasonable to extend the *Markman*-related deadlines currently scheduled to occur in the next several weeks and the remaining case deadlines by three months.

The parties agree that LifeWatch, by joining in this motion, is not waiving its position that the ‘143 patent is valid and enforceable. Further, the parties agree that Defendants, by joining in this motion, are not prejudicing their right to seek a stay of this action pending reexamination if

LifeWatch elects to appeal a final rejection by the PTO.

The parties jointly move for the following revised schedule:

<u>Deadline</u>	<u>New Date</u>
Deadline for Plaintiff to submit a Responsive Claim Construction Brief	March 16, 2011
Deadline for Defendants to submit a Reply Claim Construction Brief	April 5, 2011
Deadline for Plaintiff to submit a Sur-Reply Claim Construction Brief (limited to 5 pages in length)	April 15, 2011
Deadline to submit Joint Claim Construction Chart & Joint Status Report with proposals for Claim Construction Hearing	April 30, 2011
Claim Construction Hearing	TBD at the Court's convenience after April 30, 2011

The parties note that if the Court chooses to grant this motion without a hearing, the status conference in this matter scheduled for December 7, 2010 may not be needed. The parties' counsel are available at the Court's convenience.

REQUEST FOR RELIEF

WHEREFORE, the parties respectfully request that the Court grant this motion modifying certain case deadlines as set forth above.

Dated: December 2, 2010

/s/ Jeremy P. Occek (with permission)

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CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of the foregoing document via the Court's CM/ECF system on this 2nd day of December, 2010.

/s/ John L. Krenn

John L. Krenn

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